

REMARKS

By Applicant's prior amendment, Claims 1-50 and 53-58 were deleted and Claims 59-80 were added. Consequently, Claims 51, 52 and 59-80 were in the case.

Attached is a Notice of Appeal filed for the present case and filed simultaneously with the present Response. Upon review of the Examiner's most recent Office Action, Applicant is of the firm belief the Examiner failed to read, let alone consider, Applicant's prior Response to the March 31, 2005 Office Action. The Examiner's cursory handling of the present application without due consideration makes the present Appeal necessary.

Specifically, the Examiner ignored Applicant's revised claims and arguments, cited inapplicable law and parroted the prior Office Action without thought. It is clearly evident by a cursory review of the Action, made Final, that little attention or care went into the review of Applicant's prior Reply. For example, the Examiner continues to misread and misapply Holderegger; the Examiner cites *St. Regis Paper Co. v. Bemis Co.*, 193 U.S.P.Q. 8 (7th Cir. 1977) for a proposition that is not set forth in the case, a case which appears to have several propositions no longer recognized by the Court of Appeals for the Federal Circuit; the Examiner also cites *In re Leshin*, 125 U.S.P.Q. 416, (CCPA 1960) and extrapolates and applies it incorrectly to the alleged proposition; the Examiner states in paragraph 3 that Claims 3, 7, 16, 20, 31 and 35 are allowable when they are not even pending; and, the Examiner's only Response to Applicant's arguments is the boilerplate statement (in paragraph 6) that such arguments "have been considered but are moot in view of the new ground(s) of rejection" when there are, in fact, no real new grounds for rejection.

Accordingly, Applicant believes it is necessary to bring the above actions and inactions to the attention of the Board wherein they may be addressed and due consideration to Applicant's application may be had.

Conclusion

Applicant's previously made arguments still ring true and will be brought out on Appeal rather than here. Notwithstanding the above, Applicant respectfully requests the Examiner reconsider the Examiner's prior Action and withdraw it. To the extent an issue can be resolved over the telephone, the Examiner is authorized and encouraged to call the undersigned attorney at 312.554.3300.

Respectfully submitted,

Date: 15 August 2005

By: _____

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CERTIFICATE OF MAILING (37 C.F.R. § 1.8a)

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on Aug 15, 2005.

Kathleen Rundquist
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